

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

BENNE SINGLETARY	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	C. A. No. 06-315-JJF
	)	
COL. GOSNELL, C/O WAPLES	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION FOR ENLARGEMENT  
OF TIME IN WHICH TO FILE AN  
ANSWERING BRIEF**

1. Benne Singletary ("Singletary") is an inmate incarcerated and under the supervision of the Delaware Department of Correction ("DOC") housed at the Delaware Correctional Center ("DCC") Smyrna, Delaware.

2. On or about May 12, 2006, Singletary commenced this action by filing a Complaint pursuant to 42 U.S.C. §1983 with leave to proceed *in forma pauperis* alleging Eighth and Fourteenth Amendment Due Process violations against the following Department of Corrections ("DOC") personnel: Warden Rick Kearney, Sgt. K. Bates, Col. Bosnell and C/O Waples. (Complaint, *passim*). (D.I. 2). On or about July 13, 2006, in a Memorandum Order defendants Kearney and Bates were dismissed pursuant to 28 U.S.C. §1915(e)(2)(B) and 1915A(b)(1). (D.I. 8). The Court identified a cognizable Eighth Amendment claim against defendants Gosnell and Waples. *Id.*

3. On or about January 24, 2007, Singletary filed a Motion to Amend/Correct Complaint. (D.I. 21). On or about February 16, 2007, Singletary was deposed at the

DCC. On this same date, Singletary filed a Motion for Appointment of Counsel. (D.I. 31). On or about February 28, 2007, Singletary filed discovery motions for Production of Documents. (D.I. 33) On or about May 3, 2007, Singletary's Motion to Amend the Complaint was granted. (D.I. 36). On or about May 22, 2007, Singletary filed another Amended Complaint. (D.I. 39). On or about May 23, 2007, Singletary's Motion for Appointment of Counsel was denied. (D.I. 38). On or about June 27, 2007, Singletary filed a Motion for Summary Judgment. (D.I. 41).

4. Counsel had anticipated filing an Answering Brief within the required time pursuant to Dist. Ct. D. Del., R. 7.1.2.(a) however, due to the press of other litigation counsel finds additional time is necessary to properly respond to Singletary's Summary Judgment Motion. Counsel therefore, requests an enlargement of time of thirty (30) days from today's date, July 9, 2007, until on or before August 8, 2007, in which to file an Answering Brief.

5. This is Defendants' first request for an extension of time for filing an Answering Brief.

6. There is no trial date scheduled in this case.

7. A form of order is attached to this motion that will grant the Defendants an enlargement of time of thirty (30) days from today's date, July 9, 2007, until on or before August 8, 2007, in which to file an Answering Brief.

WHEREFORE, the Defendants respectfully request that this Honorable Court grant their Motion and enter an Order, substantially in the form attached hereto, enlarging Defendants' time to file an Answering Brief until on or before August 8, 2007.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
Ophelia M. Waters, ID#3879  
Deputy Attorney General  
Carvel State Bldg.,  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, Delaware 19801  
(302)577-8400  
[ophelia.waters@state.de.us](mailto:ophelia.waters@state.de.us)

Dated: July 9, 2007

**IN THE UNITED STATES DISTRICT COURT**

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BENNE SINGLETARY

Plaintiff,

V.

COL. GOSNELL, C/O WAPLES

Defendants.

C. A. No. 06-315-JJF

## **16.5 CERTIFICATION**

In compliance with Local Rule of Civil Procedure 16.5, counsel for the Defendants making the request for an extension of time files this certification and states:

I certify that I have sent a copy of the request for an extension of time to file an Answering Brief to the Defendants.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
Ophelia M. Waters, ID#3879  
Deputy Attorney General  
Department of Justice  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, Delaware 19801  
(302)577-8400  
Attorney for Defendants

Dated: July 9, 2007

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COL. GOSNELL, C/O WAPLES	)	
	)	
Defendants.	)	

**CERTIFICATION OF COUNSEL**

The undersigned counsel hereby certifies, pursuant to Rule 7.1.1 of the Local Rules for the District of Delaware, that:

1. Singletary is an inmate incarcerated at the Delaware Correctional Center, Smyrna, Delaware.
2. Singletary is not able to be reached by telephone; therefore, counsel for the Defendants has spent no time in attempting to reach an agreement on the subject of the Motion for Enlargement of Time.
3. The undersigned counsel assumes that the Motion is opposed.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
Ophelia M. Waters, ID#3879  
Deputy Attorney General  
Department of Justice  
820 North French Street, 6<sup>th</sup> Floor  
Wilmington, Delaware 19801  
(302)577-8400  
Attorney for Defendants

***CERTIFICATE OF SERVICE***

I hereby certify that on July 9, 2007, I electronically filed *Defendants' Motion for Enlargement of Time in which to file an Answering Brief* with the Clerk of Court using CM/ECF. I hereby certify that on July 9, 2007, I have mailed by United States Postal Service, the document to the following non-registered participant: Benne Singletary, SBI #332365; Delaware Correctional Center; 1181 Paddock Road; Smyrna, DE 19977.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
Ophelia M. Waters, I.D. #3879  
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820 North French Street, 6<sup>th</sup> Floor  
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## ORDER

Upon the Defendants' Motion For Enlargement Of Time and it appearing that good and sufficient notice of the Motion has been given; and after due deliberation thereon:

**IT IS HEREBY ORDERED** as follows:

1. The Motion is **GRANTED**.
2. The Defendants have until on or before August 8, 2007 in which to file an Answering Brief.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

The Honorable Joseph J. Farnan  
United States District Court Judge